

333 CMR 8.00: REGISTRATION OF PESTICIDE PRODUCTS

Section

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8.01: Registration Requirement

No person shall distribute, purchase or use a federally registered or special local needs pesticide in Massachusetts unless it has been registered by the Subcommittee. This prohibition shall not apply to:

- (1) pesticides labelled for manufacturing, repackaging, or formulation use only and which have no label specifications for use against target pests; and
- (2) pesticides used for experimental purposes in accordance with the provisions of 333 CMR 7.00 et. seq.

8.02: Application for Registration

(1) Application: Any person desiring to register a pesticide shall submit, on a form provided by the Department, an application for registration. The application will request sufficient information for the Subcommittee to reach a determination on registration or classification. The application shall be accompanied by the registration fee established by the Executive Office of Administration and Finance. The fee shall be paid by check or money order, payable to the Commonwealth of Massachusetts.

(2) Incomplete Applications: All applications received by the Subcommittee will be reviewed by the Department for completeness. Any incomplete application will be returned to the applicant with a notice stating the specific deficiencies.

8.03: Individual Review

(1) Criteria: The Subcommittee shall individually review for registration and classification those pesticides:

- (a) containing an active ingredient which has not been previously registered in the state;
- (b) for which a special local needs registration has been requested;
- (c) to be utilized pursuant to an experimental use permit;
- (d) with an active ingredient or use pattern which the Subcommittee determines may cause an unreasonable adverse effect(s) on the environment when used in accordance with label directions. This determination shall be made by majority vote of the Subcommittee.

(2) Process for Individual Review: Once it has determined that an individual review should be conducted, the Subcommittee, at a minimum, shall consider the information provided in either:

- (a) the EPA Fact Sheet for the active ingredient; or
- (b) a document of equal detail and scope prepared by the Department.

(3) The Subcommittee will determine, by majority vote, whether further review is required and which specific areas of concern need review. The Subcommittee will request the Subcommittee staff to conduct the further review.

8.04: Disposition of Application

(1) General Provisions: After review of the application, the Subcommittee may register and classify, or refuse to register, any pesticide for distribution, sale or use in the Commonwealth of Massachusetts. The Subcommittee may register a product in accordance with the following classifications:

(a) General Use: If the subcommittee determines that a pesticide, when used in accordance with directions for use, warnings and cautions and for the uses for which they are registered, or for one or more such uses, will not generally cause unreasonable adverse effects on the environment, including the applicator it may register and classify the pesticide as being for general use. This classification shall include all pesticides registered by the United States Environmental Protection Agency pursuant to FIFRA, and not classified as restricted, except those pesticides that are individually reviewed and differently classified, or denied registration, by the Subcommittee.

(b) Restricted Use. If the Subcommittee determines that a pesticide, when used in accordance with directions for use, warnings and cautions and for the use for which it is registered, or for one or more such uses, may cause, without additional restriction, unreasonable adverse effects on the environment, including injury to the applicator it may register and classify the pesticide for restricted use. This classification shall also include all pesticides that are registered by the United States Environmental Protection Agency pursuant to FIFRA, that are classified as restricted, and those pesticides that are individually reviewed and differently classified by the Subcommittee.

Restricted use pesticides may be further classified as State Limited Use when the Subcommittee determines that use of the pesticide:

1. should be restricted to certain individuals or groups;
2. requires permission from the Department prior to each use; or
3. requires further restriction, in any other manner.

(c) Special Local Need: If the Subcommittee determines that an existing or imminent pest problem is within the state, that an appropriately federally registered pesticide is not sufficiently available, and that the pesticide, when used in accordance with labeling directions will not cause unreasonable adverse effects on humans or the environment, and the pesticide meets all other criteria required by FIFRA, it may register the pesticide for special local need.

(2) Notification of Decision

(a) The Subcommittee shall notify the applicant within a reasonable and practicable amount of time from receipt of completed application.

(b) If the Subcommittee denies a registration or classifies a pesticide or pesticide use different than the Environmental Protection Agency classification, written notification shall be give to the applicant and shall set forth the reasons and factual basis for the determination.

(c) An initial registration of a product will be valid for a period beginning with the actual date of approval and ending on the next June 30th.

(3) Applications to Amend or Supplement: Registrants must submit to the Department, prior to release of the amended label or labelling within the Commonwealth, one copy of any amended or supplemental label or labelling approved by the Environmental Protection Agency.

8.05: Re-registration

(1) If an applicant desires to re-register a product, an application with the fee established by the Executive Office of Administration and Finance, must be submitted to the Subcommittee in accordance with the procedure set forth in these regulations, except for pesticides registered on the date of the application.

(2) If a pesticide is registered on the date of the application:

(a) separate registration applications for each product are not required if there has been no change in the information and data submitted in support of the original application for registration and this information need not be resubmitted;

(b) the pesticide shall automatically be registered upon application and classified the same as the previous year unless the Subcommittee decides to individually review the pesticide;

(c) the registration shall be deemed to be in effect until the earlier of the following two dates occur, 90 days have elapsed after the registration was scheduled to expire, or the subcommittee notifies the applicant for re-registration that the registration has been renewed, modified or denied. The registration year will be from July 1, to June 30.

8.06: Registration List

The Department shall maintain at its offices, for public inspection and copying a list of Massachusetts restricted use pesticides, state limited use pesticides and those pesticides registered by the Environmental Protection Agency, but denied registration in Massachusetts.

8.07: Modification, Suspension and Revocation

(1) The Subcommittee may, at any time, suspend a pesticide registration if it determines that:

(a) a pesticide registration does not comply with provisions of the Massachusetts Pesticide Control Act, FIFRA, and regulations promulgated under either;

(b) when used as registered a pesticide may cause unreasonable adverse effect on the environment; or

(c) a registered pesticide is an imminent hazard.

(2) The registrant may request a hearing before the Subcommittee within seven days of receiving notice of the suspension. If a hearing is requested, the Subcommittee shall, within seven days of receipt of the request, provide the registrant an opportunity to present information as to why the registration should not be revoked.

(3) After review, the Subcommittee shall make a determination as to whether or not there is sufficient cause to revoke the registration.

(4) If the registrant does not request a hearing within seven days of receipt of the notice of suspension, the Subcommittee may inform the registrant that the registration is revoked.

8.08: Right of Appeal

Any person aggrieved by the decision of the Subcommittee to register a pesticide, or to the classification of a pesticide, or to suspend, revoke or modify a pesticide registration, may request within twenty one days of receipt of the decision, an adjudicatory hearing before the Board as provided for in M.G.L. c. 132B, § 13.

8.09: Penalties

Any person who violates any provision of 333 CMR 8.00 shall be subject to the criminal and civil penalties set forth in M.G.L. c. 132B, § 14.

REGULATORY AUTHORITY

333 CMR 8.00: M.G.L. c. 132B, §§ 5 and 7